

Group III. Claim 53, drawn to a method of identifying active host cell promoters in a microorganism using a vector containing a transposon cassette.

Group IV. Claim 54, drawn to a method of identifying active host cell promoters using animals.

Group V. Claim 55, drawn to a method of screening compounds for pharmacological effectiveness against a microorganism, and,

Group VI. Claims 56-57, drawn to a method of monitoring the proliferation of a microorganism of interest.

Applicants hereby elect to prosecute the claims of Group I, claims 1-42, 45-52 and 58-59, with traverse. In particular, applicants believe the above six-way Restriction Requirement to be unduly burdensome and in error.

Specifically, the claims of Groups I through VI are directed to compositions and methods involving particular transposons cassettes. Indeed, the methods of Groups II-VI all pertain to methods of using these cassettes. Applicants believe that the claims of Groups I-VI should be examined together as one group, as a single search is likely to find art related to all six groups of claims, as evidenced by the fact that all Groups share the same classification of class 435. Indeed, MPEP §803 states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions. (emphasis added.)

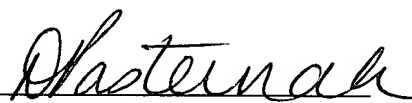
Applicants submit that an examination of the claims of Groups I-VI together as one group, or at a minimum, examination of the method claims of Groups II to VI together as one group, would not impose a serious burden on the Examiner. Indeed, applicants believe that failure to examine the claims as proposed would pose a far greater burden on the Patent and Trademark Office, by requiring a duplication of effort and resources, since a search directed to the claims of any Group would necessarily turn up overlapping art if such art existed. Additionally, imposing an six-way Restriction Requirement will cause a considerable expense to applicants. Accordingly, applicants respectfully traverse the above Restriction Requirement on

the grounds that searching the Groups together would not be unduly burdensome, and request reconsideration thereof.

Applicants expressly reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application.

Respectfully submitted,

Date: Aug 29, 2003

By: 
Dahna S. Pasternak
Registration No. 41,411

ROBINS & PASTERNAK LLP
1731 Embarcadero Road, Suite 230
Pal Alto, CA 94303
Telephone: (650) 493-3400
Fax: (650) 493-3440